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OFFICE OF PETITIONS

In re Application of :
Id. by Atty Docket No. 19398-2 :
Application No. 10/038,789 : DECISION GRANTING PETITION
Filed: 31 December, 2001 :
Atty's Docket No. 19398-2 :

This is a decision on the petition filed on 15 April, 2002, requesting that the above-identified application, including one (1) sheet of drawings containing Figure 41, be accorded a filing date of 31 December, 2001.

On 31 December, 2001, the application was filed.

On 14 February, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application stating that the application had been accorded a filing date of 31 December, 2001, but that, *inter alia*, Figure(s) 41 described in the specification appeared to have been omitted.

In response, on 15 April, 2002, *inter alia*, one (1) sheet of drawings containing Figure 41 and the present petition were submitted. Petitioners assert that Figure 41 was filed with the other application papers on 31 December, 2001, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied on 15 April, 2002. The postcard receipt shows an Office date stamp of 31 December, 2001, with the above-identified application number, and identifies the application by attorney docket number and invention title, and acknowledges receipt, *inter alia*, of drawings (71 sheets). Petitioners request that the application, including the drawings containing Figure 41, be accorded a filing date of 31 December, 2001.

A review of the record reveals that 70 sheets of drawings, containing Figures 1-40 and 42-71 are located among the application papers deposited on 31 December, 2001. However, the evidence is convincing that the application papers deposited on

31 December, 2001, included 71 sheets of drawings and that the sheet of drawings containing Figure 41 was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawing containing Figure 41 as described in the specification, is entitled to a filing date of 31 December, 2001.

The "Notice" mailed on 14 February, 2002, is vacated to the extent that it states that Figure 41 appeared to have been omitted.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 31 December, 2001, using the 71 sheets of substitute drawings filed on 15 April, 2002, and for an indication on the bib-data sheet that 71 sheets of drawings were present on filing.

Telephone inquires should be directed to the undersigned at 703 308-6918.



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